

## DEFENSE NOW ON

## State Closed in the Kauai Case Last Night.

## Prosecution's Witnesses Called in Behalf of Prisoners—Testimony of Officers and Others

The prosecution put on several witnesses in the Smith murder trial yesterday. The time of firing the shot, the search of the yard, the flight of the guilty men and the barking of Mr. Chalmer's dog, all these incidents were fixed. Kikoo testified to searching the yard after the pistol shot. He is Upapa's son-in-law but is steward of the hospital in the rear of Dr. Smith's house. He has held that position for the past ten years. Previous to that time he was a policeman for six years. He heard the shot which killed Dr. Smith. "I thought that perhaps Dr. Smith had been shooting at a dog," he said, "until the Japanese came and called me. I helped search the front yard about five minutes after the shooting. I found no animals in the front yard. The horses belonging to the family were in the paddock. I looked at my watch after the officers left for Kalo's house. It was then a little after 11 o'clock."

In cross-examination the witness said that no one had talked with him regarding the time the officers left Dr. Smith's house. He looked at his watch because he thought at the time that he might be asked what the exact time was. He was formerly a policeman and is accustomed to attach importance to such things. He said he thought that the pistol shot might have been the Doctor shooting at a cat or dog because the Doctor had shot cats and dogs in the night and sometimes in the day time before. The Doctor had a rifle, what make the witness did not know. He was not sure whether Dr. Smith had a revolver or not. He had never seen the Doctor actually shooting a dog but frequently in the night and following a shot he had heard dogs run howling through his yard.

Kikoo said that on the evening Dr. Smith was shot he had been over where the band was playing. He returned about 9:30 and passed through Dr. Smith's yard, entering by the main gate. He passed within about 30 feet of the end of the house where Dr. Smith's room is situated. He saw no one in the yard. The paddock where the Smith's horses were found that night is situated in the rear of the house. Asked regarding the exactness of his watch for keeping time the witness said that sometimes it was fast, sometimes slow, once in a while it might have been at least 15 minutes out of the way. The witness said that the shot he heard on the night Dr. Smith was killed was not so loud as that made by Dr. Smith's rifle.

Moke was the next witness. He said that he lived by Kalo's house and knew Kapes. He had seen Kapes with a revolver. Kapes had shown it to him one day and he had fired at an earthen vessel on the wall. Kapes did not shoot. Kalo heard the shot and came out of the house and scolded them for shooting in the direction of the beach. Kalo said that they could not tell whether there were people on the beach or not. The witness described the revolver and its description tallied with the revolver offered in evidence by the prosecution. He was shown the revolver which is supposed to have been the one used in shooting Dr. Smith, and identified it as the one belonging to Kapes.

In cross-examination the witness said that he remembered clearly seeing the impression of a bullet's head on the handle of the revolver. He said that when Kapes got the revolver to commence practice it was in Josepa's room in a pasteboard box in the bureau drawer. It was partly loaded at the time. This was the first time the witness had ever seen this revolver. At this time Kalo's child was dead and the body was in Josepa's house in the large room. It had died in one of the other houses and had been carried to the large room so that the company might gather. When Kapes came down from his place at this time he stayed in Josepa's house, the witness stated. His knowledge of this was from the fact that Kapes sat on the bed and talked to him through the window one night.

Mr. Chalmer's next witness, said that about ten minutes past 10 o'clock on the night of Dr. Smith's death his dogs outside were barking at a horse going very rapidly. At about half past 10 o'clock he started down the road, and near the mill he met a police officer on horseback. The officer asked him if he had heard any horse pass his place and he told him he had. Mr. Chalmer said he ran to Regal's place and telephoned. After that he went to the Smith's residence. The officers left for Kalo's house about 11 o'clock.

Sheriff Carter of Kauai was present when the 38-calibre revolver was taken from the stone wall. He testified that at that time Kapes said that Josepa had hid the revolver and had told him where he had put it. In cross-examination the Sheriff said that he heard of the death of Dr. Smith at 10:20 o'clock on the same night. He covered all the avenues of escape from Koloas that night.

On the next Wednesday, and after the examination of those suspected of being implicated in the killing of Dr. Smith and the arrest of Kapes, the Sheriff took Kapes to the place where the revolver was secreted. The path was narrow, through the lanterns. When they reached the wall Kapes pointed to the spot and the police officer dug up the gunny sack containing the revolver and the cartridges. The revolver was empty at the time.

Josepa was recalled to the stand and questioned as to the death of Kalo's child. He said that at that time he and Josepa lived at the doctor's. This was before the death of Josepa's father. Until the time of his coming to live at Kalo's house Kapes lived in the house

which he and Josepa afterwards occupied.

David Kaapa was called to the witness stand. The detective was one of the officers who went down to Kauai with Marshal Brown to look for Dr. Smith's murderers. He was present when Kalo made a statement. Kaapa testified that Kalo said to Mr. Kinney "I opposed this thing strongly and it was done without my consent." Kalo said that after he opposed the killing he heard of the death of Dr. Smith. He had not seen the revolver which the two boys had that night. When the two boys spoke of injuring Dr. Smith Kalo said that he had told them not to take a pistol or hatchet. Kalo said that no one had asked him about the killing until Mr. Kinney questioned him, that he had done a wrong not to tell of the killing before. He hadn't told of it before because of his aloha for the boys. Kalo said he had told the boys they had done a terrible thing to the Doctor.

Detective Kaapa testified further that he did not remember hearing Kalo say that the boys had been out that Friday night.

R. V. Geer was called to the stand and testified briefly on the effect on bullets from coming in contact with cloth and flesh or a bone. Judge Carter was the next witness called by the prosecution. He said that he was present on Wednesday evening when Mr. Kinney questioned Kalo at Kauai. Judge Carter testified that Kalo said that Kapes and Josepa had gone out on Tuesday night, Wednesday night and Thursday night to kill Dr. Smith. On Friday night he said nothing to them but he felt it was wrong in them, but when they returned he told them they had done a terrible thing. He said first that both the boys did it but afterwards said Kapes did it.

Judge Carter said he was present when Josepa was confronted by Geo. Rathbourn. Rathbourn said that he had met Josepa and had told him to keep his mouth shut and Josepa said that it was all right and the guns were hidden. Up to that time Josepa had made no admissions. Josepa was also confronted by Josepa. Judge Carter also said that the confession of Kalo was secured without the use of threats and with no intimidation.

The prosecution rested at 8 o'clock last evening. Then the counsel for defense presented a general outline of what it was proposed to establish in behalf of those charged with the murder of Dr. Smith. Two of the prosecution's witnesses were called at once to rebut testimony for the State. A third was on the stand at 10 p. m. when court adjourned to 9 this morning.

## AN APOLOGY.

There has been an action for damages pending before the Circuit Court in Honolulu, brought by Mr. P. Waldron against the Sheriff of Hawaii, and a Police officer of Kohala, Hawaii, and a search made by the Police officer of the baggage of Mr. Waldron.

It appears that the search was made through misunderstanding of certain information which had been received.

Mr. Waldron is an honorable gentleman and felt very much aggrieved by the treatment he received.

Mr. Andrews, the Sheriff of Hawaii, acted in perfect good faith and upon learning that wrong had been done Mr. Waldron, addressed him a letter of which the following is a copy.

Mr. Waldron, desiring only to be vindicated, has discontinued the proceedings in Court.

(Copy.)

Office of the Sheriff of Hawaii.

Hilo, Oct. 20, 1897.

Sir:—After further and full investigation and consideration of the circumstances, attending the unjust searching of your baggage at Niihau, District of Kohala, by Police officers on or about the 18th of February last, I am satisfied that great injustice was done you.

Without reviewing in detail the incidents connected with that search, I wish to assure you that while wrong was done you, and you were wholly blameless in the matter, the action taken by myself and the Police officers was the result of misinformation, and that there was no ground to connect you, or the house which you represented, with any illegal transaction whatsoever.

Under the circumstances, I not only deem it my duty, but it affords me pleasure, to correct, so far as I am able, the harm that was done, and to express my sincere regret for the occurrence.

With your permission, I will cause a copy of this letter to be published, so that any wrong impression which the public may have received in regard to the matter may be removed.

Respectfully yours,

L. A. ANDREWS,

Sheriff of Hawaii.

## To Use a Launch.

A steam launch arrived by the W. G. Hall from Kauai on Sunday. This was formerly owned by Chas. Gay but has been sold to Wm. Larsen who will use it to get the better of the remainder of the baggage hunting fraternity.

The three-year-old boy of J. A. Johnson, of Lynn Center, Ill., is subject to attacks of croup. Mr. Johnson says he is satisfied that the timely use of Chamberlain's Cough Remedy, during a severe attack, saved his little boy's life. He is in the drug business, a member of the firm of Johnson Bros. of that place; and they handle a great many patent medicines for throat and lung diseases. He had all these to choose from, and skilled physicians ready to respond to his call, but selected this remedy for use in his own family at a time when his child's life was in danger, because he knew it to be superior to any other, and famous the country over for its cures of croup. Mr. Johnson says this is the best-selling cough medicine they handle, and that it gives splendid satisfaction in all cases. Sold by all druggists and dealers, Benson, Smith & Co., agents for Hawaiian Islands.

## TANTALUS LOTS

## Sale of Fourteen at Auction by Government.

## Near Senator Schmidt's Place. Ideal Homesteads—Conditions of Deed Many and Interesting.

At noon today at the Executive Building, fourteen Tantalus lots, near Senator Schmidt's place will be sold. They vary in size from a trifle less than an acre to several acres. It is expected they will be bid well up by city-seekers for mountain homesteads. Following are the conditions:

Agreement of sale not assignable. Terms cash, or at the option of the purchaser, 25 per cent of the purchase price at the sale and the remainder in three equal instalments in one, two and three years with interest semi-annually at 7 per cent, per annum.

The purchaser shall begin substantial improvement of the land during the first year, and shall continue to carry on such improvement through the succeeding three years. The purchaser shall build a dwelling house on the land and reside thereon for a period of not less than thirty days during the said period of three years.

Number of forest trees standing on land at time of sale shall not be reduced or allowed to become reduced to a lower number than 24 trees per acre, if that number of trees are growing on the lot, that number to be kept up by replanting if necessary.

During such term no sale of spirituous liquors shall be made or allowed on the premises by the owner.

At the end of the third year if all the conditions have been performed, the purchaser or his heirs at law, shall receive a patent conferring a fee simple title, which patent shall contain a clause against sales of liquor similar to the above clause to that effect; also clause about trees.

And in case of default in the performance of such conditions, the Minister of the Interior may, with or without legal process and without notice, demand or previous entry, take possession of the premises and thereby determine the estate created by such agreement. In case of such forfeiture, such land shall be sold at auction as a whole or in parcels, for cash or on terms of time payments in the discretion of the Minister of the Interior, and if such sale result in advance on the original price, the original purchaser to receive therefrom the amount of his payments to the Government on account of purchase, without the interest and a pro rata share in such advance in proportion to the amounts of his payments. If such sale shall result, however, in a less price than the original, the amount returnable to him shall be charged with a pro rata amount of such decrease proportioned to the amounts of his payments.

No person shall be allowed to bid in more than one lot.

## TO BE WEDDED.

Dr. J. T. Wayson and Miss Della Sheehy to be united.

On Thursday afternoon, Thanksgiving Day, Miss Della Sheehy and Dr. J. T. Wayson are to be married. The ceremony will be performed by Rev. G. L. Pearson, pastor of the First Methodist church. Miss Sheehy came to Honolulu this year from the East with the family of Dr. Carter of Koolau, for a visit to Hawaii. She is the daughter of a former commissioner of Central Park, New York City. Miss Sheehy is an orphan and has spent the greater portion of her life with relatives at Easton, Pa., where she became acquainted some years ago with Mrs. John Ena. The young lady who is to become Mrs. Wayson has since her advent here, by her sunny disposition and pleasing manners made many friends. She is a lady of cultivation and fine presence and will become a favorite in Honolulu.

Dr. J. T. Wayson is quite well known in this community. He came to the Islands about four years ago and has been a successful and popular practitioner almost from the day of his arrival. His old home was at Port Townsend. He is yet a young man, but is well established here. Dr. Wayson was at one time a surgeon in the U. S. Revenue service and in 1895 he was with the N. G. H. Later he was for a time in charge at Quarantine Island and at the Kalihui Receiving station. His father is a well-known officer in the U. S. Navy.

The wedding will be a private affair. After the ceremony a few days will be spent at the Manos home of Mr. and Mrs. Ena.

## On to Washington.

The Pacific Mail wharf was crowded with natives and foreigners Saturday afternoon at the time of departure of the Gaelic which took to San Francisco, J. K. Kaula, president of the Aloha Aina Society, Kalaauokalani, president of the Kalaui Society; John Richardson of Maui and Wm. Auld of this city, the four constituting a delegation from the native patriotic societies, sent to Washington to protest against annexation. They were covered with leis by their friends as were Senator Pettigrew and Ex-Senator Dubois who made many friends while here.

## Senate Picture.

A fine enlarged picture of the members of the Senate of the Republic of Hawaii, the Cabinet Ministers and others as they appeared on the day of the calling together of the Senate for the ratification of the Annexation Treaty, has just been finished by Davey, the photographer. After remaining in the show window for a few days, it will be presented to the Senate and will probably be hung in the assembly hall of that body.

## LOCAL BREVITIES.

Christmas this year falls on a Saturday.

Two holidays this week—Thursday and Saturday.

A tract of unimproved land suitable for coffee is wanted.

The native royalist paper Ka Ahai-lono o Hawaii, is made.

About half the planting for this season is finished at Oahu.

Rev. C. M. Hyde and wife are home after a pleasant visit to Japan.

Sam Monsarrat is down from San Francisco on a little vacation.

Real battenberg fancy work on exhibition at B. F. Ehlers & Co.

Frank Hustace finds his new rubber-tire road wagon fast and comfortable.

Report has it that the new chainless wheel comes in but two gears—66 and 72.

Wm. Henry telephoned from Kaneohe yesterday: "Heavy rains in Koolau."

The Rev. Alex. Mackintosh is preparing a class of thirty candidates for confirmation.

It is expected that all the fencing about the Judiciary Building grounds will soon disappear.

It is thought Manoa may be able to try for the fast mile on Cyclometer track tomorrow afternoon.

There will be a meeting of the Board of Health at 3 p. m. tomorrow to dispose of two week's business.

Mr. Churchill, the ex-Consul-General to Samoa, finds quite a number of Yale friends in Honolulu. He was '82.

W. H. Rice has sent from Kauai to the Elite (Hart & Co.), some calabashes made from the shells of ostrich eggs.

All plans of various royalists leaders for a public reception to Senator Pettigrew in Honolulu failed or miscarried.

One of the most interesting articles in Thrum's Annual for 1898 is by J. K. Farley of Koloa on the pictured rocks of Kauai.

The Princess Kaiulani will continue to receive at Alinahau. The reported removal of Washington place was only a rumor.

All expense for the recent election except for remote portions of Hawaii have been settled up by Wray Taylor, the registrar.

Trouble with Japanese laborers at Ewa is pa. The 81 men arrested Thursday night were fined and have returned to work.

Chas. J. Falk will, in about two months' time leave his position in Mahukona, Hawaii and come to this city to enter into business.

The Inter-Island Company will occupy its new offices on Queen near Fort street on May 1st. A private telephone line from that building to the wharf office will be one of the conveniences.

A gentleman lately from the Coast says he was told by a well-informed San Francisco business man that Claus Spreckels was now worth \$25,000,000 and was anxious to place large sums of money at 4 per cent or even a shade less.

Articles advertised by the Hawaiian Hardware Company in the columns of this paper are what they are represented to be—the best. The same applies to the ready-made harness handled by this house. Read "Timely Topics" today and be convinced.

R. T. Guard, at one time purser on the steamer Australia, but of late freight clerk on the Oceanic Company's dock at San Francisco, is a passenger on the bark Rhoderick Du now on its way to Hilo. Mr. Guard contemplates going into business in that town.

A short note was received by the Alameda, by a member of the Advertiser's staff, from S. Furuya, who is pleasantly remembered here, as one of the Japanese correspondents who arrived on the Naniwa. Mr. Furuya is at Ann Arbor attending law lectures at the University of Michigan.

## Branch Store.

Thomas Wall of the firm of Wall, Nichols Company, will go to Hilo on the Kinan today to attend to the work of establishing a branch store at that place. He will be gone just long enough to finish up the arrangements when he will return to Honolulu.

A queer story is told of an English naturalist, who died in 1860, and was buried at Blankney, in Lincolnshire. Among his pets was a large grey bat. This bat was permitted to enter the tomb, and was sealed up alive along with the corpse of his dead master. In 1866 the vault was opened, and, to the surprise of all, the bat was alive and fat. On four different occasions since the relatives of the dead man have looked after the welfare of his pet, and each time it has been reported that the bat was still in the land of the living, although occupying quarters with the dead. It was last seen in 1892.

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## UNION SERVICE.

Thanksgiving Program for Three City Congregations.

Following is the program of the Union service at 11 a. m. on Thanksgiving Day at Central Union Church: Prelude, viola, organ and piano accompaniment. Doxology and Lord's prayer. Responsive reading. Hymn 1063. Reading of Scripture. Anthem. Prayer. Anthem. Offertory. Sermon by Rev. G. L. Pearson. Hymn 1050. Prayer and benediction.

The Rev. T. D. Garvin and Rev. D. P. Birnie will take part in the service. The collection at the Union service will be for the Strangers' Friend Society.

## Veteran Firemen.

This is the committee John Nott has chosen by the authority vested in him at the first meeting for the formation of a society of the ex-volunteer firemen of the city:

John A. Hassinger, Hose No. 1; C. B. Wilson, Engine No. 1; Henry Smith, Engine No. 2; Jas. H. Boyd, Engine No. 4; L. H. Dee, Fire Police.

So soon as these gentlemen report to Mr. Nott that they are ready with a scheme of organization a meeting will be called and all arrangements completed for the life of the society.

Good baking powder is cheaper than "cheap" baking powder, because it doesn't make doctor's bills.

"Cheap" baking powder generally contains alum—bad for the stomach. Schilling's Best is at your grocer's.

A Schilling & Company San Francisco

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For fine watch work is widespread; but we wish to impress the few who may not yet be in line, with the necessity of sending their watches when out of order to us directly, and not first allow every linker to ruin the watch, after which, send it to us for proper repairs.

The Cost is always more to you, after such treatment; ever so much better to send it right down to us, for we allow nothing but perfect work to leave our workshop.

You will be surprised, too, how much cheaper it will be, and how much more satisfactory to you.

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In Quarts and Pints.

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The greatest benefactor for all derangements of the system is DR. RUSSELL'S PEPSIN-CALISAYA BITTERS.

As a remedy for those suffering with dysentery or chronic diarrhoea, its value cannot be overestimated.

## Pepsin

It will give strength to the stomach, invigorating to the liver, tonic to the bowels and correct digestion. As a tonic and builder, this valuable remedy stands unsurpassed.

## Calisaya-

The best proof of the virtue in a preparation is the results obtained by taking it. The remarks from those taking the remedy speak very highly of it.

## Bitters

Try a bottle and tone up your system, which will enable you to do your labors with ease and comfort.

## HOLLISTER DRUG CO.

## SOLE AGENTS.

## TIMELY TOPICS

NOVEMBER 20, 1897.

When You See An article advertised in this column you can make up your mind that we have tested it beforehand, and have found it well worthy of serious attention.

Our business is trade, and our trade is in that class of goods best suited to the country and the ideas of the people—the best.

CHEAP HARNESS is not necessarily worthless harness.

We are in a position to purchase cheaply and can therefore give our purchasers the benefit by selling cheaply.

We stock all descriptions of harness, from the plain plow harness to the elegant buggy set, either in black or russet leather, express wagon harness, dump cart harness, mule harness, etc., etc.

An inspection of our large stock will convince you that we know our business, and the prices we have placed upon our goods will surprise you.

The Hawaiian Hardware Co. 286 FORT ST.